

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Rule making related to Iowa veterans home

The Commission of Veterans Affairs hereby amends Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 35D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 35D.

Purpose and Summary

These amendments update the rules relating to the Iowa Veterans Home procedures and comply with requirements for rule making pursuant to 2020 Iowa Acts, House File 2312.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5660C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on July 7, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on September 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **801—10.1(35D)**, definition of “Collaborative care plan,” as follows:
“*Collaborative care plan*” means the plan of care developed for a member by the ~~interdisciplinary~~ resident care committee.

ITEM 2. Amend rule **801—10.1(35D)**, definition of “Legal representative,” as follows:
“*Legal representative*” for purposes of applicant or member personal and care decisions means durable power of attorney for health care, guardian, or next-of-kin (spouse, adult children, parents, adult siblings), ~~as provided in Iowa Code chapters 144A, 144B, and 633.~~ For applicant or member financial decisions, “legal representative” means conservator, power of attorney, fiduciary or representative payee or next-of-kin (spouse, adult children, parents, adult siblings).

ITEM 3. Rescind the definition of “Interdisciplinary resident care committee” in rule **801—10.1(35D)**.

ITEM 4. Adopt the following **new** definition of “Resident care committee” in rule **801—10.1(35D)**:
“*Resident care committee*” or “*RCC*” means the member, a social worker, a registered nurse, a dietitian, a medical provider, a recreation specialist and a mental health provider, as required, who are involved in reviewing the member’s assessment data and developing a collaborative care plan for the individual member.

ITEM 5. Adopt the following **new** definition of “Visitation” in rule **801—10.1(35D)**:
“*Visitation*” is considered part of the individual’s therapeutic program. Visits are expected to benefit the individual’s treatment goals while meeting the security needs of the facility and ensuring the safety of the individual and visitor.

ITEM 6. Amend paragraph **10.2(1)“f”** as follows:
f. Individuals admitted to the domiciliary level of care must meet DVA criteria stated in Department of Veterans Affairs, State Veterans Homes Home Per Diem Program, Veterans Health Administration, M-1, Part 1, Chapter 3.11(h) (1), (2), and (3), and have prior DVA approval if the individual’s income level exceeds the established cap Directive 1610SH.01(1).

ITEM 7. Amend paragraph **10.3(2)“d”** as follows:
d. Website: www.iowaveteranshome.org ivh.iowa.gov.

ITEM 8. Amend subrule 10.3(3) as follows:
10.3(3) The applicant shall ~~be scheduled for a~~ provide a copy of a physical which has been completed within three months of application. If needed, a physical examination ~~by a medical shall be scheduled by the applicant’s primary care provider, and the results of the examination shall be entered on the application by the examining medical provider. If the applicant has had a complete physical examination within three months of application, a copy of this physical shall suffice.~~ Information must be authenticated by the medical provider’s original signature or electronic signature.

ITEM 9. Rescind paragraph **10.3(4)“a.”**

ITEM 10. Reletter paragraphs **10.3(4)“b”** to **“i”** as **10.3(4)“a”** to **“h.”**

ITEM 11. Amend relettered paragraph **10.3(4)“a”** as follows:
a. A copy of the veteran’s honorable discharge (DD214) from the armed forces of the United States.

ITEM 12. Amend relettered paragraph **10.3(4)“e”** as follows:
e. A copy of the marriage license(s), divorce ~~decrees~~ decree(s) or death certificate ~~for~~ of the spouse, if as applicable.

ITEM 13. Amend subrule 10.6(2) as follows:
10.6(2) Upon arrival at IVH, the applicant or legal representative shall meet with the admissions ~~office and resident finance office~~ staff for an admission interview.

ITEM 14. Amend subrule 10.6(3) as follows:

10.6(3) During the interview ~~in the admissions office with the admissions coordinator,~~ the following items will be reviewed and signed by the applicant or legal representative:

- a. Permission for Treatment, Form 475-0814.
- b. The “Contractual Agreement,” Form 475-1833.
- c. The applicant’s resources.
- d. The member support, billing process and banking services.

ITEM 15. Rescind subrule **10.6(4)**.

ITEM 16. Renumber subrules **10.6(5)** to **10.6(7)** as **10.6(4)** to **10.6(6)**.

ITEM 17. Amend paragraph **10.14(3)“c”** as follows:

c. The first ten days of each hospitalization. ~~On the eleventh day the member’s bed shall be held without charge until the termination of hospital stay and member returns to IVH.~~ After ten days, IVH assumes the authority to discharge the resident but reserves the right to negotiate an extension to the bed hold, if warranted, in the best interest of the resident and family, at the discretion of the commandant or designee. A hospital stay may occur more than once in a calendar year.

ITEM 18. Amend paragraph **10.16(2)“c”** as follows:

c. *Assets of a married member with spouse in a care facility.* If a member’s spouse is residing in a nursing facility, the member shall be treated as a single member for asset determination purposes. If the member and the spouse become members of IVH on the same day, all resources of both members shall be added together and split one-half to each member for asset determination purposes. If the spouse is residing in a residential care facility or an assisted living facility, the rules pertaining to a spouse living in the community apply.

ITEM 19. Amend paragraph **10.16(2)“d”** as follows:

d. *Assets of a married member with spouse living in the community.* When liquid assets not exempted in paragraph “a” above are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for the payment of member support. ~~These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.~~

The assets attributed to the member shall be determined from the documented assets of both the member and spouse living in the community as of the first day of admission to IVH. All resources of both the member and the spouse shall be added together. If the total resources are less than \$24,000 ~~(the amount set by 441 IAC 75.5(3) “d” and “f,” Public Law 100-365 and Public Law 100-485)~~ the predetermined amount set by the department of human services, then that amount shall be protected for the spouse living in is awarded to the community spouse. ~~If~~ The amount in excess of this predetermined figure, up to an equal amount, if applicable, the next \$24,000 shall be awarded to the member. Any resources over \$48,000 this combined amount shall be split one-half to the member and one-half to the spouse up to a predetermined maximum amount set by the department of human services. All resources over the predetermined maximum amount shall be awarded to the member unless it is determined that the member would never be eligible for Medicaid benefits; in this circumstance, assets will be split one-half to the member and one-half to the spouse. Other resources attributed to the spouse living in the community shall be determined by the department of human services through the attribution process These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least \$140.

(1) to (3) No change.

ITEM 20. Amend subrule 10.17(3) as follows:

10.17(3) An applicant or legal representative shall not knowingly and intentionally divest an asset, as set out in subrule 10.17(1), within the period established by Title XIX statute prior to admission, with the intention of reducing the applicant’s member support or of obtaining admission to IVH.

When it is determined by the commandant or designee that an applicant did intentionally divest an asset, upon admission that applicant ~~shall~~ may be charged member support as if the divestment did not occur.

ITEM 21. Amend subrule 10.17(4) as follows:

10.17(4) A member or legal representative shall not knowingly and intentionally divest an asset, as described in subrule 10.17(1), while a member with the intention of reducing the member support.

When it is discovered that a member or legal representative improperly divested an asset(s), that member ~~shall~~ may be charged member support as if the divestment did not occur.

ITEM 22. Amend subrule 10.35(7) as follows:

10.35(7) Upon the death of a member with personal funds deposited with IVH, ~~IVH will first take payment for the final support bill, and upon receipt of documentation of an outstanding balance, IVH will promptly convey the member's funds to the funeral home or to the individual paying the last funeral expenses. If no bill is presented for funeral expenses, IVH will collect any balance owing for the resident's final support bill, which may include debts owed to the IVH arts and crafts and ceramics program. If funds remain, IVH, upon receipt of documentation of the outstanding balance, will convey promptly the member's funds to the funeral home or to the individual paying last funeral expenses. IVH will notify promptly the estate recovery program of the death of any IVH resident who has been on Title XIX. Upon IVH's receipt of notification from the estate recovery program, any funds remaining in the deceased resident's membership account will be disbursed according to the deceased resident's directions. If probate papers are produced, a final accounting of those funds must also be provided to the individual administering the member's estate along with a disbursement of any remaining funds. If the value of the member's estate is so small as to make the granting of administration inadvisable, IVH must hold, then deliver all money plus interest within one year to the proper heirs equally or adhere to the member's request in the member's last will and testament.~~

ITEM 23. Amend subrule 10.35(8) as follows:

10.35(8) A member discharged while on leave from IVH shall have the member's account closed ~~before the first~~ by the tenth day of the month following discharge.

ITEM 24. Amend paragraph **10.36(1)"d"** as follows:

d. Hospital leaves. Leaves spent in approved medical facilities away from IVH shall not be counted against the 59-day leave time limit as set out in paragraph 10.14(3) "*b.*"

Hospital leaves shall be granted and the charges for such leaves shall be as follows: During the first ten consecutive days of any hospital stay, the member shall pay the regular and usual assessed charge for the member's level of care. ~~Beginning on the eleventh day through the remainder of the hospitalization~~ After the tenth day, if a mutual agreement is made between the resident or legal representative and the commandant or designee for the member's bed to be held for additional days, the member shall not be charged. Each monthly member support bill shall reflect any adjustments related to hospitalization.

Leaves to other medical facilities for the purpose of treatment shall be treated as hospital leaves.

ITEM 25. Amend paragraph **10.36(2)"e"** as follows:

e. A bed shall be held for a hospitalized member for up to ten consecutive days. After ten days, IVH assumes the authority to discharge the resident, but reserves the right to negotiate an extension to the bed hold, if warranted, in the best interest of the resident and the facility, at the discretion of the commandant or designee. The member's client participation shall be paid according to the department of human services' income maintenance worker for all hospitalized days until member returns or is discharged.

ITEM 26. Amend paragraph **10.36(3)"b"** as follows:

b. Upon return from a pass, the member must remain in residence ~~past midnight of the day of return before another pass is issued~~ 24 hours before another pass can be issued.

ITEM 27. Amend paragraph **10.37(2)“b”** as follows:

b. Designate that the member shall receive personal mail items, but business mail received at IVH from entitlement sources or concerning assets shall be routed to the resident finance office, cashier's office or Medicare purchasing office, whichever is appropriate.

ITEM 28. Amend subrule 10.40(3) as follows:

10.40(3) The steps described in subrule 10.40(2) shall generally be followed in that order. However, if the member's violation is of an extreme nature and the member is not amenable to counseling, the commandant or designee shall choose to discharge the member after the expiration of a 30-day written notification period which begins when the notice is personally delivered. If the ~~IRCC~~ RCC, in conjunction with the medical provider and mental health personnel, deems that the member's behavior poses a threat of imminent danger, the commandant or designee may issue notice of an immediate involuntary discharge. In such an emergency situation, a written notice shall be given prior to or within 48 hours following the discharge.

The member's county commission of veterans affairs and the legal representative shall be informed in writing of the decision to discharge. Written notification shall also be issued to appropriate governmental agencies including the commission, the department of inspections and appeals, and the department on aging's long-term care ombudsman to ensure that the member's health, safety or welfare shall not be in danger upon the member's release.

ITEM 29. Amend subrule 10.43(1) as follows:

10.43(1) The commandant or designee shall, with the input and recommendation of the ~~IRCC~~ RCC, involuntarily discharge a member for any of the following reasons:

a. The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member's conditional or provisional agreement entered into at the time of admission or at any time thereafter, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

1. Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

2. By having been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1)“*a*,” if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the ~~IRCC~~ RCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged under paragraph 10.43(1)“*a*” if the member's actions or behavior jeopardizes the life or safety of other members or staff.

b. The member refuses to utilize the resources available to address issues identified in the member's collaborative care plan, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and the member has been placed on probation by IVH for a second offense.

Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1)“*b*,” if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the ~~IRCC~~ RCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged if the member's actions or behavior jeopardizes the life or safety of other members or staff.

c. The member no longer meets the requirements for residential or nursing level of care, as determined by the ~~IRCC~~ RCC or medical provider.

d. The member requires a level of licensed care not provided at IVH.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/21.